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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ROSENBERG, LAURA B

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/774,351

Applicant(s)

DODGE, DAVID

Examiner

Laura B Rosenberg

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,7,8,15,16,19-28,31-36 and 39-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4,7,8,15,16,19-28,31-36 and 39-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-15-04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment received on December 29, 2003, in which claims 3, 7, 8, 23-26, 31-34, and 39-43 were amended and claims 10-13, 29, 30, 37, and 38 were canceled.

Drawings

2. The drawings were received on December 29, 2003. These drawings are acceptable.

Claim Objections

3. Claims 3, 4, 16, 22, 36, 39, and 41 are objected to because of the following informalities:

“toe holding means pivot” should be --toe holding means pivots-- (claim 3, line 12);

“the central portion” should be --a central portion-- (claims 4, 16, 22; line 2);

“the ski” should be --the ski or ski board-- (claims 4, 16, 22; line 2);

a comma should be inserted between “a cam follower” and “a first cam” (claim 36, line 2);

“the longitudinal center” should be --a longitudinal center-- (claim 39, line 8);

claim 41 should be canceled because it is a duplicate of lines 4-5 of independent claim 39.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 3, 4, 7, 8, 15, 16, 19-28, 31-36, and 39-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Peyre (5,044,656). In regards to claims 3, 4, 15, 16, and 22, Peyre discloses a ski binding (best seen in figures 4, 5, 9) for use with a ski (#11) comprising a static plate (#12, 17) capable of being attached to the ski (via #13, 18) in a central portion of the base plate (best seen in figure 1), a top plate (#21) pivotally attached to the static plate (via #18', 36), "biasing means" (#24, 26, 28) for biasing the top plate towards a predetermined position, a toe holding means (#43) pivotally/translatably connected to the top plate (via a pin that is not labeled; best seen in figure 4) so that lateral force applied to the toe holding means is transferred to the top plate, having a toe release means which will release when the toe holding means pivots/translates when the top plate is moved away from the predetermined position (the toe holding means would release the toe of a boot when the toe holding means pivots or translates).

In regards to claims 7, 8, 19, and 20, Peyre discloses the "biasing means" comprising a first cam (#24).

In regards to claims 21 and 42, Peyre discloses a heel holding means (#40) pivotally connected on the top plate (via a pin that is not labeled; best seen in figure 4)

so that a lateral force applied to the heel holding means is transferred to the top plate, which will cause the heel holding means to pivot (the heel holding means would release the heel of a boot when the heel holding means pivots).

In regards to claims 23, 24, 31, and 32, Peyre discloses the "biasing means" comprising a second cam (#24).

In regards to claims 25, 26, 33, 34, Peyre discloses the first cam comprising a first bias which cooperates with the top plate and the second cam comprising a second bias which cooperates with the top plate, the first bias being different than the second bias. Specifically, each spring (#28) of each cam can be adjusted with an adjusting screws (#51) to create a different bias for each cam.

In regards to claims 27, 28, 35, and 36, Peyre discloses the first cam comprising a cam follower (#26), a first cam surface (surfaces of #26 in contact with #52 and #11 in figure 1) on which the cam follower may travel if a lateral force having a first direction is applied thereon, and a second cam surface (surfaces of #26 in contact with #52 and #11 in figure 6) on which the cam follower may travel if a lateral force having a second direction is applied thereon.

In regards to claims 39 and 41, Peyre discloses a ski binding for a ski (#11) comprising a rigid static base plate (#12, 17), a top plate (#21) pivotally attached to the base plate, a toe holding means (#43) pivotally mounted to the top plate, a heel holding means (#40) mounted on the top plate, means to mount the base plate on the ski at or near a longitudinal center (via #13, 18) of the base plate (best seen in figures 1, 9), and a first pivot means (recess #23) located between the center and the toe holding means

(best seen in figure 9), adapted to allow the top plate to pivot "around" the first pivot means (best seen in figure 9).

In regards to claim 40, Peyre discloses a second pivot means (#23) located between the center and the heel holding means (best seen in figure 9), adapted to allow the top plate to pivot "around" the second pivot means (best seen in figure 9).

6. Claims 3, 4, 7, 15, 16, 19, 20, 23, 27, 31, 32, 35, 36, 39, 40, 41, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Rohrmoser (5,213,356). In regards to claims 3, 4, 15, and 16, Rohrmoser discloses a ski binding (#1) for use with a ski (#3) comprising a static plate (#8) capable of being attached to the ski in a central portion of the base plate (best seen in figure 1), a top plate (#23) pivotally attached to the static plate (via #41 and/or #46, 57), "biasing means" (fit between recesses #34 and projections #32 and/or spring #57 and/or spring #60) for biasing the top plate towards a predetermined position, a toe holding means (#4) pivotally/translatably connected to the top plate (via #21, 27) so that lateral force applied to the toe holding means is transferred to the top plate, having a toe release means which will release when the toe holding means pivots/translates when the top plate is moved away from the predetermined position (column 4, lines 35-38).

In regards to claims 7, 19, and 20, Rohrmoser discloses the "biasing means" comprising a first cam (including projections #32).

In regards to claims 23, 31, and 32, Rohrmoser discloses the "biasing means" comprising a second cam (including #29).

In regards to claims 27, 35, and 36, Rohrmoser discloses the first cam comprising a cam follower (projections #32), a first cam surface (a recess #34) on which the cam follower may travel if a lateral force having a first direction is applied thereon, and a second cam surface (the other recess #34) on which the cam follower may travel if a lateral force having a second direction is applied thereon (best seen in figure 3).

In regards to claims 39 and 41, Rohrmoser discloses a ski binding (#1) for a ski (#3) comprising a rigid static base plate (#8), a top plate (#23) pivotally attached to the base plate, a toe holding means (#4) pivotally mounted to the top plate, a heel holding means (#5) mounted on the top plate, means to mount the base plate on the ski at or near a longitudinal center (the center could be to the left of #41 in figure 1) of the base plate (base plate #8 mounted to ski #3 indirectly via #9; best seen in figure 1), and a first pivot means (#29) located between the center and the toe holding means, adapted to allow the top plate to pivot around the first pivot means (best seen in figures 2-4).

In regards to claim 40, Rohrmoser discloses a second pivot means (#41 or projections #32) located between the center and the heel holding means (#5), adapted to allow the top plate to pivot around the second pivot means (best seen in figures 2-4).

In regards to claim 43, Rohrmoser discloses a binding (#1) for mounting a ski boot (#2) to a ski (#3), the binding comprising a plate (#23) over which the ski boot may be placed (best seen in figure 1), a first pivot means (#32 or 41) to pivotally attach the plate to the ski, a toe holding means (#4) having a toe holding surface (#19), and a second pivot means (#29) to pivotally attach the toe holding means to the plate, wherein the second pivot means is located at the toe holding surface (best seen in figure 2).

7. Claims 43 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Pascal et al. (4,679,815). In regards to claim 43, Pascal et al. disclose a binding (#1, 3-5) for mounting a ski boot (#7) to a ski (#2), the binding comprising a plate (#1) over which the ski boot may be placed (best seen in figure 1), a first pivot means (#3) to pivotally attach the plate to the ski, a toe holding means (#4) having a toe holding surface (#29), and a second pivot means (including #37) to pivotally attach the toe holding means to the plate, wherein the second pivot means is located at the toe holding surface (best seen in figures 1-3).

In regards to claim 44, Pascal et al. disclose a heel holding means (#5) and third pivot means (#24 or 26) to pivotally attach the heel holding means on the plate (best seen in figure 1).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stritzl et al. and Jungkind disclose a ski binding with a top plate pivotally mounted on a base plate with a pivotal heel holder. Dimier et al. and Rohrmoser disclose a ski binding with a plate pivotally mounted on a ski and a second pivot means located under a toe holding surface. Himmetsberger et al. disclose a ski binding with a pivotally mounted plate with cams. Gertsch discloses a ski binding with a pivot located beneath the toe holding surface. Beyl and Gertsch disclose ski bindings with pivotally mounted plates. Laughlin et al. disclose a ski binding with toe and heel holders pivotally mounted to a top plate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura B. Rosenberg

LBR

Paul N. Dickson 4/16/04

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